

**ZUCKERT
SCOUTT &
RASENBERGER L.L.P.**

AVIATION ADVISOR

Special Edition
December 6, 2006

DOT WITHDRAWS “ACTUAL CONTROL” PROPOSAL

The Department of Transportation (“DOT”) withdrew its controversial “actual control” rulemaking proposal yesterday. In making the announcement, Secretary Mary E. Peters said, “It was clear from reviewing the comments that the Department needs to do more to inform the public, labor groups and Congress about the benefits of allowing more international investment. We need a stronger national consensus about the best means of achieving that objective.”

The proposal, first issued in November 2005 and amended in May 2006, would have allowed international investors more input in the marketing, scheduling and aircraft selection decisions of U.S. airlines while retaining U.S. citizen control over safety, security, national defense and corporate governance. It encountered significant opposition from Continental Airlines, various labor unions and many members of Congress. Several carrier supporters of the proposal also criticized it as being ineffective in achieving the desired liberalization of

DOT actual control analysis in a practical manner.

Although withdrawing the proposal, DOT nonetheless stated (Notice at 12-13) that the Department’s past administration of the “actual control” requirement is anachronistic and needlessly precluded foreign investment in the U.S. airline industry to its detriment. The U.S. should, the Department argues, encourage additional foreign investment in the U.S. airline industry, give U.S. carriers freedom in developing beneficial business relationships across borders and eliminate outdated restrictions on business conduct.

A copy of the Department’s press release and rulemaking notice may be found at <http://www.zsrlaw.com/publications/articles/PDF/DOT-PR-12-05-2006.pdf>

The **AVIATION ADVISOR** is published by **Zuckert, Scoutt & Rasenberger, L.L.P.**, a Washington, D.C. law firm.

For further information regarding any of the developments discussed in this issue, please contact a member of the firm’s Aviation Group:

Frank J. Costello
Ralph L. Kissick
William H. Callaway, Jr.
Rachel B. Trinder
Charles J. Simpson, Jr.
Richard D. Mathias
Malcolm L. Bengel
Lonnie A. Pera
Robert T. Francis
Jonathan Howe
Nathaniel Breed
Clay Foushee
John E. Gillick

Our address is:
888 17th Street, N.W.,
Washington, D.C. 20006.
Telephone: (202) 298-8660
Telecopiers: (202) 342-
0683/1316
Web site: www.zsrlaw.com

© 2006